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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/748,976   | 12/29/2003  | Anthony Joonkyoo Yun | PALO-004            | 8822             |
| 24353 7590 03/17/2008<br>BOZICEVIC, FIELD & FRANCIS LLP<br>1900 UNIVERSITY AVENUE<br>SUITE 200<br>EAST PALO ALTO, CA 94303 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| KAHELIN, MICHAEL WILLIAM   |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 3762   |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 2/20/2008 have been fully considered but they are not persuasive. Applicant argued that Rezai (US 2005/0065574) fails to teach modulating a portion of the autonomic nervous system of a female subject known to suffer from a fertility condition in a manner effective to treat the fertility condition because Rezai lists a large number of maladies, without specifically indicating the control parameters for each of the conditions. However, the mere fact that Rezai discloses a large number of conditions does not obviate the fact that Rezai discloses treating these conditions.
2. Applicant further argued that Verrier (US 5,437,285) fails to render the claimed subject matter obvious because Verrier's method applies only to subjects prone to sudden cardiac death. However, many organs are under autonomic control, and Verrier is relied on merely for the teaching of using sympathetic/parasympathetic balance as a control parameter for one such organ. Although Verrier may or may not be directed to heart conditions, the principle of controlling this balance is equally applicable to other autonomically-controlled organs as evidenced by paragraph 0011 of the Schuler (US 2006/0224189) reference, cited previously.
3. Applicant further argued that Rezai discloses that the sensors providing closed-loop control only detect "the rate and pattern of neuronal activity" and lists several examples of electrical neuronal activity that can be detected. Applicant argued that

none of these examples is a ratio of sympathetic and parasympathetic activity. However, Verrier is relied upon for this teaching. Although Rezai provides several species of the genus "neuronal activity" that can be measured, others are known in the prior art, including the ratio that Verrier teaches. The Examiner maintains the asserted motivation to apply Verrier's teaching set forth in the previous Office Action.

4. In regards to the argument that claims 2 and 3 are not anticipated by Rezai, the Examiner concedes this point. The rejection of these claims under 35 USC 102(e) in the previous Office Action was a typographical error and this rejection is withdrawn. However, the rejection of these claims under 35 USC 103(a) stands as set forth previously.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL KAHELIN whose telephone number is (571)272-8688. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/  
Primary Examiner, Art Unit 3762

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Examiner, Art Unit 3762